

## **PART 17 Income**

Income is the receipt of money, or the value of goods and services, which can be used to provide for food, shelter or clothing.

Income is counted in the month it is received, whether it is for a previous, current or future period. Any portion remaining is counted with all other assets in the following month. (See Part 16, Section 2.30). This provision pertains to all types of income including lump sums from wages, inheritances and lottery winnings.

The exception to the month received rule is direct deposits and other electronic transfers of funds. These are counted for the month they were intended to be received even if they are posted early or late.

### **SECTION 1 DETERMINATION OF MONTHLY GROSS INCOME**

The gross amount of income (before payroll or other deductions) is used. The source of income and the time frame in which it is received must be considered in determining the gross income for a particular month. Income received less frequently than monthly must be counted in the month received unless it is contract income.

For prospective coverage, income anticipated to be received over the eligibility period must be used.

For retroactive coverage, the actual income for the period to be covered must be used.

### **SECTION 2 GARNISHMENT OF INCOME**

Garnishment is when income is withheld by administrative or court order to pay a creditor or overpayment by a government agency.

For Family - Related categories: income prior to garnishment is used with the exception of garnishment of unearned income to recover an overpayment. This includes, but not limited to, unemployment benefits (UIB), Social Security and Worker's Compensation.

For SSI - Related categories: income is counted even if it is garnished unless the individual was receiving Medicaid at the time a government overpayment occurred. In this case the reduced amount of payment is used in determining the amount of income.

### **SECTION 3 TYPES OF INCOME**

#### **Section 3.1 Attributed income**

The amount of tips reported to IRS by large restaurants. It is based on a formula and may not reflect the amount actually received by the employee. The attributed tips are shown on the W-2. It is the responsibility of the employer to keep a daily log of tips actually received. The log of tips will be used to determine the amount of tips countable as income. If there is reason to believe that tips are being underreported, the individual and, with the individual's permission, the employer or collateral sources should be contacted.

**Section 3.2 Contract Income**

Income received by employees for a set period of time. It may be a full year or for a shorter term, such as school teachers.

Divide the most recent contract income by the length of the term of the contract to determine the monthly average.

**Section 3.3 Earned Income**

Income received in payment for the labor or services of an individual. It includes cash payments, wages, salaries, commissions, sheltered workshop wages, and profits from self-employment (See Section 3.8 of this Part), severance, contractual payments and deferred compensation.

**Section 3.4 Fluctuating Income**

Income received by an employee in different amounts each pay period or at irregular intervals. The differences may be due to the number of hours worked, hourly wage rate, output (such as piecework and some types of commissions) or the number of employers (such as baby sitting).

In these cases, the individual's income must be examined over the broadest period of time possible. If the "year to date" (YTD) figure is an accurate reflection of the current situation, divide the amount by the number of weeks the YTD covers and budget this average as regular weekly income.

If the YTD is not accurate, the average weekly income should be based on a review of income representative of the current situation. If there are unusually high or low weeks, then an exploration of how likely they are to continue must be made and their inclusion or exclusion documented.

**Section 3.5 Lump Sum Income**

Lump sum income is a non-recurring payment received as a result of an accumulation of income or windfall income. Some examples are: retroactive portions of Social Security, Workers' Compensation, Unemployment, Disability, VA or other benefits, pay raises, inheritances, and lottery winnings.

Lump sum income is treated as income in the month of receipt and as an asset in the following month. See Section 4.40 of this Part for exclusions to income and Part 16, Section 2.30 for exclusions as an asset.

**Section 3.6 Regular Income**

Income received by an employee at regular intervals and in the same amount each pay period. This includes income of salaried employees and hourly wage earners who work the same number of hours at the same hourly pay each week.

The amount of income to be used is based on the frequency it is received.

When income is received once a month, that is the monthly gross income.

.

When income is received twice a month (usually the first and fifteenth of each month), multiply the gross wages by two.

When income is received biweekly, multiply the gross wages by 2.15.

When income is received weekly, multiply the gross wages by 4.3.

### **Section 3.7 Seasonal Income**

Income that is not received year round. During the off-season, no income is received from the seasonal occupation.

Seasonal income is budgeted for the period that the individual is actually working. To determine an anticipated amount, use the income received for the most recent season of employment, taking into consideration any expected increases or decreases in income.

### **Section 3.8 Self-Employment Income**

#### For all categories -

Income received by a self-employed individual who is engaged in a business enterprise. This includes independent contractors, franchise holders, owners / operators, farmers, people who produce and sell a product, and service-type businesses.

If the most recent tax return is available showing the profit or loss, and there have been no major changes, then the monthly gross income is determined by dividing the net profit or loss amount by twelve. The net profit or loss can be found on the appropriate IRS schedule such as the Schedule C.

If a tax return is unavailable, the profits have changed considerably, or the business was started after the beginning of the tax year, the most detailed records showing the net profit should be used. The records may include ledger sheets, receipt books, self-employment work sheets, or any reasonable form of documentation. All deductions allowed by the Internal Revenue Service, including depreciation, may be used.

Some sources of income, though exempt from taxation, are counted in MaineCare. An example is Difficulty of Care payments. The amount that is counted will be the gross receipt minus expenses associated with the production of this income.

The net loss from one source of self-employment is deducted against other earnings including other sources of self-employment income of the individual, his/her spouse or other members of the assistance unit. This applies whether a couple filed a joint income tax return or separate returns, and regardless of which member of the assistance unit incurred the loss. This includes, in SSI - Related categories, the ineligible spouse and parents of disabled children.

Do not allow a deduction for losses from a prior year.

#### For Family - Related Categories -

For Family - Related categories net income from rental property, roomer and boarders is treated as earned income.

#### For SSI - Related categories -

For SSI - Related categories net income from rental property is treated as earned income when Income Tax is filed on a Schedule C. It is treated as unearned income if filed in a Schedule E. Net income from roomers and boarders is treated as unearned income.

### **Section 3.8.1 Corporations**

- I. A business incorporated as an LLC, a Sub-S or S corporation:
  - A. The income of the corporation is owned by the individual.
  - B. The assets of the corporation are owned by the individual.
- II. A business incorporated as a C corporation:
  - A. The income of the corporation is owned by the corporation and is not countable to the individual unless it is distributed to the individual as income.
  - B. The assets of the corporation are owned by the corporation and are not countable to the individual except for (C) below.
  - C. If the individual owns a share of any corporation but is not employed at least twenty hours per week in the corporation, the individual's share of the corporation is a countable asset. The individual's share is their percentage of ownership in the corporation's book value or market value; whichever is greater. Book value is the corporation's assets minus liabilities.

### **Section 3.8.2 Sole Proprietorship**

This is a business owned by the individual. The business is not incorporated under IRS rules. The individual owns all the assets and income of the business.

### **Section 3.8.3 Partnership**

This is an agreement between two or more individuals who share profit and loss in a business. The specific terms of a partnership determine whether income and assets are owned by the individual unless the provisions of Section 3.8.1 of this Part apply.

### **Section 3.9 Unearned Income**

Income received for something other than payment for the labor or services of an individual.

It includes Social Security, Veteran's Benefits, pensions, dependent's allotments, maintenance agreements, contributions, support payments, annuities, dividends, interest, or unemployment compensation.

Service charges are not deductible in determining dividend or interest income.

For SSI - Related categories roomer and boarder and rental income reported or filed on Schedule E of the Income Tax Form (See Section 3.8 of this Part) are unearned income.

## **SECTION 4 TREATMENT OF INCOME**

**Section 4.1 Adoption Assistance** – *excluded for Family - Related categories*  
Adoption Assistance Payments.

**Section 4.2 Agent Orange Settlements** – *excluded for all categories*  
Agent Orange Settlements as provided for under PL 100-687 and 101-201.

**Section 4.3 ASPIRE Payments – excluded for Family - Related categories**

Exclude all payments made by the ASPIRE-TANF Program.

**Section 4.4 Burial Funds – excluded for SSI - Related categories**

Interest on funds designated for burial or interest earned on the value of agreements representing the purchase of burial spaces (provided the burial spaces are excluded from assets and provided the interest is left to accrue) as long as there is no break in the receipt of assistance. (See Part 16, Section 2.6).

**Section 4.5 Cafeteria Plans – partially excluded for all categories**

Portions of IRS Section 125 payments retained by the employer as payment for benefit items chosen by the employee from the Section 125 menu or “cafeteria plan” are excluded.

**Section 4.6 Child Support**

For all categories -

Child support payments are income to the child(ren) for whom the payments are intended. This rule applies even if the child does not reside with the parent receiving the payment or if the payments include arrearages (past due amounts) or if the “child” for whom the payments are intended is now over age 18.

For Family - Related Categories -

The first \$50.00 per month of current child support payments received by the assistance unit whether received through DSER or direct *is excluded*.

Child support paid by the Department that is in excess of the monthly obligation is excluded. This applies only to TANF recipients

**Section 4.7 Children eligible for SSI - Related coverage**

The following exclusions from the child’s income apply:

- I. The first \$1640 per month of earned income, not to exceed \$6600 per calendar year, for a student attending school regularly as defined by the learning institution.
- II. One-third of child support, including a military allotment. The payment may be voluntary or court ordered.

**Section 4.8 Children not included in the assistance unit – excluded for Family - Related categories**

Income of children not included in the assistance unit is not used to determine eligibility of those in the assistance unit. However, their income may be used to determine the amount of income allocated from the assistance unit (See Part 4 for budgeting).

**Section 4.9 Combat Pay - excluded for SSI Related categories**

Hostile fire allotment paid by the Uniformed Services.

**Section 4.10 Commercial Transportation Tickets - excluded for SSI - Related categories**

The value of a domestic commercial transportation ticket received as a gift by an individual (or his or her spouse) and not converted to cash will be excluded in the

determination of the individual's income. Domestic travel is defined as travel among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

**Section 4.11 Compensated Work Therapy Program – *excluded for all categories***

Earnings received under the Compensated Work Therapy Program established by Title 38 U.S.C. Section 1718 and administered by the Department of Veteran Affairs. Monies received under this program are considered a social service benefit and not to be considered countable income.

**Section 4.12 Cost of Living Adjustment (COLA)**

There are two types of income exclusions associated with annual Cost of Living Adjustments. One exclusion is used for any COLA taking effect in January, February and March (See Section 4.11.1 below), while the other only applies to Social Security and Railroad Retirement benefits (See Section 4.11.2 below).

**Section 4.12.1 Cost of Living Adjustments taking effect January, February and March – *excluded for all categories***

All annual Cost of Living Adjustments (COLA) that take effect in January, February or March, will be excluded for any individual in a Medicaid coverable group whose income limit is based on the FPL. This exclusion will remain in effect until the month following the month that the new annual Federal Poverty Levels (FPL) are published in the Federal Register. This exclusion also applies to individuals covered by DEL, Maine Rx, Cub Care, and Medicare Buy-In.

**Examples:**

1. An individual is an ongoing MaineCare recipient. He received a Social Security COLA in January. The Federal Poverty Levels are published in February. The COLA is excluded until March. The cost of living increase is counted in the budget as of April.

This exclusion also applies in determining retroactive coverage.

2. An individual applies in April. The poverty levels were published in February. The Social Security COLA received in January will be excluded for the retroactive months of January, February and March.

This exclusion does not apply to individuals covered under Home and Community Based Waivers and Medically Needy since the Federal Poverty Levels are not used in determining their eligibility.

**Section 4.12.2 Social Security and Rail Road Retirement Cost of Living Adjust. (COLA) - *excluded for SSI - Related categories (not excluded for State Supplement)***

If the COLA results in ineligibility for individuals covered under SSI - Related categories, the amount of SSA / RR received prior to the most recent COLA is used to determine eligibility.

This applies to individuals:

- I. covered under SSI – Related categories using the Federal Poverty Level as an income limit.
- II. covered under Medicare Buy-In.

This applies to individuals in the following living arrangements when comparing their income to the Medicaid rate for the facility:

- Awaiting Placement for Residential Care,
- residing in Cost Reimbursed Boarding Homes,
- in Residential Care Facilities, and
- in Adult Family Care Homes whose income goes over the Medicaid rate.

This exclusion is not used to determine the cost of care for these facilities.

**Example:**

A disabled individual is eligible and receiving Medicaid. In January he receives his SSDI COLA of \$35.00. This increase puts him over the FPL in effect for that month.

The increase will not be counted until the month following the month the new FPL's are published.

In February the new FPL's are published. The individual's countable income is still greater than the new FPL level because of the COLA received in January. The COLA of \$35.00 received in January will be excluded to determine the individual's countable income.

This exclusion ends if:

- I. the individual loses Medicaid coverage for any reason for three consecutive months.

To determine if an individual has lost Medicaid coverage for three consecutive months the retroactive period of a reapplication must be taken into account. If including the retroactive months the individual was not closed for three consecutive months, the disregard will continue.

**Example:**

An individual with a COLA disregard closes in June. He reapplies in November. By applying the COLA disregard in the retroactive month of August, September and October the individual is eligible. The individual will keep the COLA disregard for retroactive and prospective months.

- II. the individual's countable income, including the disregarded SSA/RR COLA, is below the FPL.

The individual may again be eligible for the disregard in later years if they again become ineligible due to COLA changes in SSA / RR and FPL.

If the individual receives added or increased income from a source other than SSA / RR at the time of the COLA adjustments, this disregard can be used only if ineligibility is caused by the change in SSA/RR income.

When budgeting for a couple this disregard applies to the SSA / RR of both individuals even though disregarding the COLA increase of only one member of the couple would result in keeping Medicaid coverage for the couple.

**Section 4.13 Disability Insurance Payments – *excluded for SSI - Related categories***

All payments made on behalf of an individual under a credit life or credit disability insurance policy (i.e. payment of car payments or mortgage when you become disabled).

**Section 4.14 Disabled Widowers Benefits – *excluded for SSI - Related categories***

Social Security benefits received by some disabled widow(er)s who are not receiving Medicare (See Part 6, Section 5.2.9).

**Section 4.15 Disaster Relief - *excluded for SSI - Related categories***

In-kind or cash assistance received as the result of a disaster declared by the President of the United States.

**Section 4.16 Disaster Unemployment Assistance – *excluded for all categories***

Disaster Unemployment Assistance authorized in P.L. 100-707, 42 U.S.C. Section 5155(d) (1988). This is paid to an individual unemployed as a result of a major disaster.

**Section 4.17 Earned Income Exclusions for Blind or Disabled – *excluded for SSI - Related categories***

Earned income which is used to meet expenses of producing income by a person who is blind or disabled is excluded. This includes earnings excluded by SSI as part of a PASS plan. These expenses include transportation to and from work (in accordance with IRS guidelines or actual cost if not using own car), cost of caring for a guide dog, child-care, licenses, lunches, Braille instruction, professional association dues, income taxes, tools, union dues and computer training.

**Section 4.18 Earned Income Tax Credit (EITC) – *excluded for Family - Related categories***

EITC received as advance payment in weekly wages or received in one sum.

**Section 4.19 Emergency Assistance – *excluded for all categories***

**Section 4.20 Emergency Conservation Services Program – *excluded for SSI - Related categories***

Any assistance provided in cash or in-kind under the Emergency Conservation Services (ECS) Program (PL 93-644, Sections 222 and 95-568) including cash to prevent fuel cut-offs.

**Section 4.21 Experimental Housing Allowance Program – *excluded for all categories***

Payments made under Annual Contribution Contracts entered into prior to 1/1/75, under Section 23 of the U. S. Housing Act of 1937, as amended.

**Section 4.22 FmHA Utility Reimbursement – *excluded for all categories***

**Section 4.23 Food produced for personal consumption by members of the household – *excluded for all categories***

**Section 4.24 Food Supplement Program (FSP) – *excluded for all categories***

The value of benefits under the Food Supplement Program or food distributed by the Department of Agriculture are excluded.

**Section 4.25 Foster Care Payments**



Excluded for Family - Related categories -

IV-E Foster Care Maintenance Payments

Payments received from the Department or other agencies for foster children in licensed or approved homes who are not part of the assistance unit.

Excluded for SSI - Related categories -

Foster care payments to a provider of foster care for a child or adult who is not an eligible individual but who is living with an eligible individual and who was placed there by a public or private agency.

**Section 4.26 General Assistance** – *excluded for all categories*

**Section 4.27 Goods and services** – *excluded for Family - Related categories*

Goods and services not included in the list of basic requirements (See Chart 1.)

**Section 4.28 Governor Baxter School Compensation** – *excluded for all categories*

One time cash payment from the Governor Baxter School for the Deaf Compensation Authority. Interest on this compensation is excluded as income and any accrued interest is excluded as an asset.

**Section 4.29 Grants, Loans Scholarships**

I. Administered by Commissioner of Education – PL 90-575 – Title V

A. The grants and loans are:

1. Basic Education Opportunity Grant Program (Pell Grants)
2. National Direct Student Loan program (Perkins Loans)
3. Supplemental Education Opportunity Grant Program (SEOG)
4. Guaranteed Student Loan Program
5. State Student Loan Program

Family - Related – *exclude all*

SSI - Related – *exclude for all undergraduates and exclude only tuition and fees for graduate students*

B. All other grants/loans/scholarships:

Family - Related – *exclude tuition, fees, other necessary educational expenses, and child care in accord with Part 4, Section 3.*

SSI - Related – *exclude tuition and fees and other necessary educational expenses for undergraduates and count for all other students*

Educational expenses include lab fees, student activity fees, transportation, stationary supplies, books, technology fees, and impairment related expenses necessary to attend school or perform school work.

II. Federal College Work Study Program - *excluded for all categories.*

III. For Family - Related categories only –

Certain grants, loans and scholarships to the extent that they do not include funds for items such as food, shelter, clothing or personal needs:

A. Educational programs for veterans -

The Veterans Administration (VA) sponsors several different educational assistance programs. One does not have to be a veteran to qualify for assistance under some of the programs.

Each individual who qualifies for and receives educational assistance receives an award letter from the VA which indicates the amount to be received and the period of time during which it will be received.

That part of the payment received from the VA for an individual's dependents who are in the assistance unit must be counted as available income to those individuals.

B. Any funds granted for educational purposes that are based on need and consider the TANF payment as income in determining educational assistance, the grant, loan, or scholarship is excluded. This applies whether or not payment is made direct to the institution or to the student for educational purposes.

Verification of these conditions must be obtained through the student, the institution or the source prior to disregarding any portion of the funds.

**Section 4.30 Home Based Care Funds – *excluded for all categories***

**Section 4.31 Home Energy Assistance Program (HEAP) – *excluded for all categories***

Assistance with fuel bills or weatherization assistance received through the Home Energy Assistance Program (HEAP).

**Section 4.32 Housing**

Excluded for all categories -

- I. Value of relocation assistance under the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (PL 91-646 Title II). This does not include payment for the fair market value of the property.
- II. Any interest paid on HUD escrow accounts is not countable income as long as a family is receiving any state, federal or other public assistance for housing and they cannot access this amount. The "Family Self-Sufficiency Program" is a five year program open to all section 8 housing participants which aims to help the family become self-sufficient at the end of the five years. When the account becomes available, it is countable as a resource and/or interest income.
- III. Value of assistance for housing under the Housing Authorization Act of 1976 (PL 94-375) or Housing Act of 1937 as amended by PL 92-213.

For Family - Related categories only –

HUD community development block grant funds received to finance the rehabilitation of a privately owned residence. HUD monies must be used for major property repairs or capital improvements. HUD payments are made by check payable directly to the contractor or jointly to the contractor and property owner.

**Section 4.33 HUD Utility Reimbursement - *excluded for all categories***

**Section 4.34 Individual Development Accounts – *excluded for all categories***

Contributions to an Individual Development Account (IDA). See the asset rule for a definition of an IDA.

- I. Family Development Account (FDA for TANF recipients) -
  - A. any income used by the individual to fund this account excluded as income.
  - B. any asset used by the individual to fund this account is excluded as an asset including up to \$10,000 of lump sum income remaining in the month following receipt.
  - C. any individual contributions that are matched are excluded as income.
  - D. accrued interest on FDA funds is excluded as income or asset.
  - E. Withdrawals from these accounts at any time must be used for the following purposes in order for the fund to remain an exempt asset:
    1. expenses for education or job training to attend an accredited or approved post secondary education or training institution;
    2. the purchase or repair of a home that is the primary residence;
    3. the purchase or repair of a vehicle used for transportation to work or to attend an education or training program;
    4. capital to start a small business for any member of the assistance unit 18 years of age or older;
    5. health care costs of a member of the assistance unit that are medically necessary and that are not covered by public or private insurance;
    6. to address an emergency that may cause the loss of shelter, employment or other basic necessities; or
    7. to address other essential family needs approved by the Department.

When withdrawals are used for any other purpose this will result in the fund being considered a countable asset effective the month of the withdrawal. The TANF Program determines if this condition is met.

- II. Demonstration Project Account (AFIA) -
  - A. any income of the individual deposited in an AFIA are excluded as income.
  - B. any individual contributions that are matched by another party are excluded as income or assets.
  - C. accrued interest on AFIA funds are excluded as income or assets.
  - D. withdrawal from these accounts is allowable only for certain reasons as determined by the agency authorizing this IDA. These reasons include post- secondary educational expenses, acquiring a residence, or expenditures for operating a business.

**Section 4.35 Income of those who could be in the household except they are in a medical facility – *excluded for Family - Related categories***

Income of persons who could be members of the assistance unit except that they are in a hospital, intermediate care facility (ICF) or skilled nursing facility (SNF). In most situations, the income of the individual in the hospital or nursing home is used to determine nursing home eligibility. This also takes place when the individual is in an acute care facility for a period of more than sixty days or immediately upon entering a hospital for a kidney transplant.

**Section 4.36 Income tax refunds – *excluded for all categories***

**Note:** These are countable assets on the first day of the month following the month received.

**Section 4.37 Irregular or Infrequent Income – *excluded for all categories***

Earned or unearned income, from a single source, which is received irregularly (receipt cannot reasonably be expected) or infrequently (no more than once during a calendar quarter). This amount is not to exceed \$60.00 per calendar quarter for unearned income and \$30.00 per calendar quarter for earned income. This includes small gifts of income such as those received at Christmas, graduation, birthdays or anniversaries.

**Section 4.38 Job Related Expenses – *excluded for Family - Related categories***

Reimbursement for job related expenses such as travel or uniforms to the extent that they do not represent a gain or exceed actual expenses.

**Section 4.39 JTPA/Job Corp Payments**

Family - Related categories -

All JTPA income or Job Corps payments are excluded except on-the-job training income of an individual at least 19 years old who is not a dependent child.

SSI - Related categories -

Payment by JTPA for supportive services such as child-care, transportation, medical care, meals and other reasonable expenses are excluded.

**Note:** All other payments from JTPA are considered income.

**Section 4.40 Loans – *excluded for all categories***

Money borrowed by an individual providing there is clear evidence of an agreement to repay. The proceeds of the loan are not income in the month borrowed, however, they are considered countable assets in the following month.

Written statements from both the individual and the party lending the money must be obtained indicating that the funds are a loan, the amount and the plan for repayment. Without verification of the loan the funds will be considered a gift and treated as a lump sum (See Section 4.40 below).

**Section 4.41 Lump Sum Income**

Income that has accumulated and is received in one payment by the individual is considered a lump sum. This includes Worker's Compensation, retroactive Social Security payments, Unemployment Benefits received retroactively due to the result of a hearing, and Veteran's Benefits. Gifts, inheritances, lottery winnings and insurance settlements are also considered to be a lump sum payment.

Lump sum income is counted as income in the month received, and any remaining the next month are counted as an asset. SSI lump sum payments are excluded income.

For Family - Related categories –

Deduct the following to determine the amount of countable lump sum income:

- I. attorney's fees; and
- II. any portion earmarked and verified as having been used for the purpose for which it was paid (i.e., monies for back medical bills resulting from accident or injury, funeral and burial costs, replacement or repair of a lost resource, etc.).
- III. In addition, exclude as income any amount used within thirty days of receipt for any of these purposes:
  - A. expenses for education or job training to attend an accredited or approved post secondary education or training institution;
  - B. The purchase or repair of a home that is the family's primary residence;
  - C. the purchase or repair of a vehicle used for transportation to work or to attend an education or training program; and
  - D. capital to start a small business for any member of the assistance unit who is 18 years of age or older.
- IV. In addition, exclude as income up to \$10,000 used within thirty days of receipt for any of the following purposes:
  - A. health care costs of a member of the assistance unit that are medically necessary and that are not covered by public or private insurance;
  - B. to address an emergency that may cause the loss of shelter, employment or other basic necessities;
  - C. to address other essential family needs approved by the Department;
  - D. transferred to a Family Development Account authorized by state law or to a separate identifiable account; withdrawals from these accounts at any time must be used for the items in (III) and (IV). Withdrawals used for purposes other than in (III) and (IV) terminate the exemption of the fund as an asset. This determination is made by TANF.

Any amount remaining in the month following receipt is a countable asset.

SSI - Related categories –

SSI or Social Security retroactive payments are excluded as an asset for nine months. After that, any portion remaining becomes a countable asset.

The exception to the month received rule is direct deposits and other electronic transfers of funds. These are counted for the month they were intended to be received even if they are posted early or late.

**Section 4.42 Native American payments**

Excluded for all categories –

- I. Any payments distributed per capita to or held in trust for members of any Indian tribes under PL 92-524, 93-134, 94-540, 97-458 or 98-64.
- II. Receipts distributed to members of certain Indian tribes referred to in Section 5 of PL 94-114, effective 10/17/75, and PL 98-123 and 98-124, effective 10/13/83.
- III. Any income or assets accruing to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians pursuant to PL 96-420 (the Maine Indian Claims Settlement Act of 1980).
- IV. The tax exempt portions of payments made pursuant to PL 93-203, the Alaskan Claims Settlement Act.

*Excluded for SSI - Related categories –*

- I. Native American payments as detailed in Title 20 CFR, Part 416 Appendix to Subpart K (IV).
- II. Per capita distribution payments, receipts from trust lands and dividend payments to members of various native American and Indian tribes such as Blackfeet, Gros Ventre, Grand River Band, Alaskan Native Claims Settlement Act under the provisions of Distribution and Judgment Funds (PL 92-254 Sections 4, 6, and 7), Receipts from Lands Held in Trust for Indian Tribes (PL 94-114, Section 6).

**Section 4.43 Nazi persecution payments – *excluded for Family - Related categories***

Payments made to victims of Nazi persecution under Public Law 103-286 (Nazi Persecution Victims Eligibility Benefits).

**Section 4.44 Nutrition and Food Assistance – *excluded for all categories***

- I. The value of supplemental food assistance under the Child Nutrition Act of 1966 (WIC), as amended and the special food services program for children under the National School Lunch Act, as amended (PL 92-422, PL 90-302 and PL 93-150).
- II. Any benefit received under Title VII Nutrition Program for the Elderly, of the older Americans Act of 1965, as amended by PL 95-478.

**Section 4.45 Payments to replace income – *excluded for SSI - Related categories***

All payments made to replace income that has been lost, destroyed or stolen.

**Section 4.46 Radiation Exposure Compensation – *excluded for all categories***

Money received under the Radiation Exposure Compensation Act for injuries or death resulting from radiation due to nuclear testing and uranium mining.

**Section 4.47 Rent rebates – *excluded for SSI - Related categories***

Rebates by any public agency of taxes or rent rebate on real property.

**Section 4.48 Repayment of a loan – *excluded for all categories***

Money received as the repayment of the principal of a loan (including a promissory note) is not income in the month received. Any amount retained in the following month is considered a countable asset. Money received as interest payments is considered income in the month received.

**Example:**

A couple sells their home and holds a mortgage at 10%. They receive \$315 per month as a mortgage payment. Of that amount, \$200 is interest and must be counted as income in the month received. The remaining \$115 is repayment of the principal and is excluded income for the month. Any portion of the principal remaining in the following month is a countable asset for that month.

**Section 4.49 Ricky Ray Hemophilia Fund – excluded for all categories**

Payments received under the Ricky Ray Hemophilia Relief Fund Act of 1998. Interest income generated on these payments is countable income and any accrued interest is excluded as an asset. These payments are not subject to special rules on trusts or a transfer of resource penalty. Payments are not counted in determining a cost of care.

**Section 4.50 Savings bonds – excluded for SSI - Related categories**

Interest on Series E, EE and H Savings Bonds is not counted as income at any time. When these bonds are redeemed, the interest is a countable asset.

Interest on Series HH Savings Bonds is paid by direct deposit, semi-annually. The interest would be considered unearned income in the month received.

**Section 4.51 Self Support Plans – excluded for SSI - Related categories**

That portion of earned or unearned income needed to fulfill a plan for self-support approved by Vocational Rehabilitation or the Social Security Administration (including PASS plans) for an individual who is disabled or blind.

**Section 4.52 Selling, replacing or exchanging an asset – excluded for all categories**

Money received as a result of selling, replacing or exchanging an asset is excluded as income. They are assets that have changed their form.

**Section 4.53 Senior Community Service Employment Program (SCSEP) – excluded for SSI - Related categories**

A wage or salary from the Senior Community Service Employment program is earned income. Anything else is excluded. Community Service Employment is a Program for older Americans authorized under Chapter 35, Title 42 of U.S. Code.

**Section 4.54 SSI Payments – excluded for SSI - Related categories**

SSI benefits received by a spouse, parent or other family member when determining non-nursing care assistance.

**Section 4.55 Student Income – excluded for Family - Related categories**

Wages of dependent children under the age of 21 as long as they are full-time students or part-time students not employed full time.

Students are considered students throughout the calendar year, including summer months as long as they intend to return to school in the fall.

A student is one who is attending a school, college or university or a course of vocational training designed to prepare the student for gainful employment. This includes a participant in the Job Corps Program.

An individual under the age of 21 may be considered a student regularly attending a school or a training course if:

- I. enrolled in and physically attending full time (as certified by the school or institution) a program of study or training leading to a certificate, diploma or degree;
- II. enrolled in and physically attending at least half-time (as certified by the school or institution attended) a program of study or training leading to a certificate, diploma or degree and is regularly employed in or available for and actively seeking part-time employment; or
- III. enrolled in a program of study or training leading to a certificate, diploma or degree but unable to attend half-time or seek part-time employment because of a verified physical handicap.

**Section 4.56 Susan Walker Settlement – *excluded for all categories***

Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et al, and payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement.

When payments are made in lieu of a class settlement, the agreement must be signed by all parties on or before 12/31/97 or 270 days after the date on which a release is first sent to the persons to whom the payment is to be made.

**Section 4.57 TANF – *excluded for SSI - Related categories***

TANF benefits received by a spouse, parent or other family member are excluded. These people are also not counted as members of the assistance unit during the budgeting process.

**Section 4.58 VA Benefits for Vietnam veterans' children with spina bifida – *excluded for all categories***

VA monthly payments made to or on behalf of Vietnam veterans' natural children regardless of their age or marital status for any disability resulting from spina bifida suffered by such children are excluded from income and resources. Interest earned on unspent payments is not excluded.

**Section 4.59 VA Benefits that have special treatment – *partially excluded for SSI - Related categories***

- I. Excluded as income is that portion of a VA benefit (Pension or Compensation) which is paid to disabled veterans, their spouses, widows or parents as an Aid and Attendance, Housebound Allowance or payments resulting from Unusual Medical Expenses.

There are two exceptions to this rule:

- A. Benefits in excess of \$90.00 per month are counted in determining the cost of care for a resident of a State Veteran's Nursing Home if the resident is a veteran with no dependents or surviving spouse with no dependents.
- B. There is no exclusion of benefits when determining the cost of care in a RCF, CRBH, or AFC.



- II. VA benefits for dependents. VA may increase the amount of a benefit if the veteran or surviving spouse has a dependent.
  - A. When the increase is included in the payment to the veteran or surviving spouse and the dependent resides with the veteran or surviving spouse. This is called an “augmented benefit.” The share attributed to a dependent is income to the dependent only. If the dependent does not live with the veteran or surviving spouse, the dependent’s share is not income to anyone.
  - B. When the dependent of a veteran or surviving spouse does not live with the veteran or surviving spouse VA may pay the increase directly to the dependent. This is called an “apportionment” or “apportioned benefit”. This payment is unearned income to the dependent.

**Section 4.60 Vendor Payments – *excluded for SSI - Related categories***

Vendor payments (payments for goods or services provided to an eligible individual or couple which are made directly to a vendor by a third party).

**Section 4.61 Volunteer Service Programs – *excluded for all categories***

Any payment whether cash or in-kind made under the Domestic Volunteer Service Act Public Laws (93-113)

- I. Title I - Corporation for National and Community Service (CNCS)(formerly ACTION):
  - A. AmeriCorps State and National, AmeriCorps NCCC, and AmeriCorps\* VISTA,
  - B. University Year for Action (UYA), and
  - C. Special and Demonstration Volunteer Programs.
- II. Title II - National Older American Volunteer Programs which now include:
  - A. Foster Grandparent Program
  - B. Senior Companion Program
  - C. Retired Senior Volunteer Program (RSVP)
- III. Title III - (repealed and now contained within the Small Business Act):
  - A. Service Corps of Retired Executives (SCORE)
  - B. Active Corps of Executives (ACE)